



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

April 18, 2006

Robert K. Kelner, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004

RE: MUR 5390
Federal Home Loan Mortgage Corp.

Dear Mr. Kelner:

On April 17, 2006, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of violations of 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "AS", with a long horizontal stroke extending to the right.

Adam Schwartz
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Federal Home Loan Mortgage Corp.)
a/k/a Freddie Mac)

MUR 5390

CONCILIATION AGREEMENT

This matter originated with a *sua sponte* submission ("Submission") by the Federal Home Loan Mortgage Corporation ("Freddie Mac" or "Respondent") following a complaint filed by Public Citizen alleging that Robert Mitchell Delk, a senior Freddie Mac executive, violated multiple provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"). Based on the Submission, in which Mr. Delk participated, and subsequent investigation, the Commission found reason to believe that Freddie Mac violated 2 U.S.C. § 441b.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i) and 11 C.F.R. § 111.18(d).
- II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. The Respondent enters voluntarily into this agreement with the Commission.
- IV. The Commission acknowledges and has taken into consideration Freddie Mac's cooperation in connection with this matter.
- V. The pertinent facts in this matter are as follows:

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COUNSEL

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1. Freddie Mac is a stockholder-owned corporation chartered by the U.S. Congress in 1970. Freddie Mac is subject to congressional oversight by the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs. Freddie Mac employs 4,921 individuals and is headquartered in McLean, Virginia, with five regional offices located around the country.
2. Leland Brendsel was the chairman of the Board of Directors and Chief Executive Officer from 1989 to June 2003. During his tenure, Mr. Brendsel managed Freddie Mac through frequent meetings and informal conversations with senior executives who reported directly to him, including the President and Chief Operating Officer, who was in charge of the business operations; the General Counsel; and the heads of the Human Resources, Corporate Relations, and Government Relations departments.
3. Robert Mitchell Delk was the Senior Vice President of Freddie Mac's Government Relations department from approximately 1997 to March 2004. As the head of Government Relations, Mr. Delk was ultimately responsible for achieving Freddie Mac's legislative and regulatory objectives. During the period relevant to this investigation, Mr. Delk reported directly to Mr. Brendsel.

4. Within Government Relations, the Congressional Relations group consisted of approximately ten people, including registered lobbyists, a political activities coordinator, and support staff. Between 2000 and 2004, Congressional Relations was headed by Clarke Camper, who was specifically responsible for achieving legislative results and managing the day-to-day operations of Congressional Relations. Mr. Camper reported directly to Mr. Delk.
5. Prior to July 2004, Freddie Mac did not have a separate segregated fund registered with the Commission.

Applicable Law

6. The Act prohibits corporations from making contributions or expenditures from their general treasury funds in connection with any election of any candidate for federal office. 2 U.S.C. § 441b(a). Section 441b(a) also prohibits any officer or director of any corporation from consenting to any expenditure or contribution by the corporation. In addition, corporations are explicitly forbidden from using corporate resources to engage in campaign fundraising activities, except where certain exceptions apply. *See* 11 C.F.R. §§ 114.2(f) and 114.2(f)(4)(ii).
7. Furthermore, while a corporation may solicit or suggest in a communication sent to its restricted class that they contribute to a particular candidate or committee, a corporation (including its officers, directors or other representatives acting as agents of

corporations) may not facilitate the making of an individual's contribution to a candidate or act as a conduit for individual contributions. *See* 2 U.S.C. § 441b(b)(2)(A); 11 C.F.R. §§ 114.2(f)(1) and 114.3. Examples of facilitating the making of contributions include: (1) officials or employees of the corporation ordering subordinates or support staff (who therefore are not acting as volunteers) to plan, organize or carry out the fundraising project as a part of their work responsibilities using corporate resources; and (2) providing materials for the purpose of transmitting or delivering contributions, such as stamps, envelopes addressed to a candidate or political committee other than the corporation's or labor organization's separate segregated fund, or other similar items which would assist in transmitting or delivering contributions. *See* 11 C.F.R. §§ 114.2(f)(2)(i)(A) and 114.2(f)(2)(ii).

8. The Act also prohibits "any corporation organized by authority of any law of Congress" from making "a contribution or expenditure in connection with any election to any political office." 2 U.S.C. § 441b(a). For purposes of Section 441b, the terms "contribution" and "expenditure" include "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . . to any

candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in" Section 441b.

Factual Background

Campaign Fundraising Events

9. During his tenure at Freddie Mac, Mr. Delk hosted campaign fundraising dinners for the benefit of Republican Members of Congress. In May 1999, Mr. Delk met with Julie Wadler, the President of Epiphany Productions, Inc. ("Epiphany"), a political consulting and event planning firm, and asked her to assist him in organizing campaign fundraising events for candidates for federal office. Ms. Wadler agreed, and began to work with Mr. Delk in this capacity.
10. In June 1999, Freddie Mac hired Epiphany to provide political consulting services to Freddie Mac in exchange for a monthly retainer of \$3,000. The Epiphany monthly retainer increased to \$10,000 in January 2001, to \$15,000 in January 2002, and to \$25,000 in December 2002. The Commission has reason to believe that Freddie Mac, through its monthly retainer, compensated Epiphany for producing campaign fundraising events. Freddie Mac contends that the monthly retainer was paid solely to compensate Epiphany for services unrelated to Mr. Delk's fundraising events such as providing political and legislative advice, organizing non-fundraising events honoring

current and former government officials and events at national political party conventions and presidential inaugurals, and advising Freddie Mac regarding fundraising for the building fund accounts of national political parties (during the period when corporate donations to building funds were permissible).

11. Between 1999 and August 2002, Epiphany did not bill the campaign committees for which it produced campaign fundraising events for either its professional services or expenses. Epiphany did, however, bill Freddie Mac \$22,512 for "blast facsimile" and courier charges associated with forty campaign fundraising events held between January 17, 2001, and June 25, 2002. According to Freddie Mac, it requested and received a refund of this entire amount after consulting with its former outside election law counsel in August 2002.
12. Mr. Delk chose the venue for the fundraising events, Galileo restaurant in Washington, DC, and, in consultation with Epiphany and some Government Relations employees, chose the candidates for whom to hold fundraising events. Otherwise, the planning and execution of these events was left to Epiphany, which coordinated with Mr. Delk, the candidate, and Galileo to determine the date of the event. Epiphany then created an invitation list and sent invitations via blast facsimile to individuals on the list. At the event, Epiphany set up nametags

and remained at the event to make sure everything went smoothly. If no representative of the candidate was present, Epiphany collected any contribution checks brought by attendees. After the event, Epiphany created a chart listing all of the attendees and the amounts they contributed. Epiphany then typically shared some of this information with Mr. Delk, but did not provide this information to the recipient committee.

13. According to Mr. Delk, he did not know who was attending an event until he arrived. He also claimed during the investigation that Epiphany told him that he was required to pay the cost of the dinners, which would be treated as in-kind contributions. Mr. Delk, and in some cases his wife, paid Galileo with personal funds for the cost of the dinners.
14. In addition to Mr. Delk, in most cases at least one of Freddie Mac's other in-house lobbyists attended these campaign fundraising events. According to witnesses, the Freddie Mac lobbyist responsible for the relationship with a particular candidate or officeholder typically attended the fundraising events held on that person's behalf.
15. In some instances, both the lobbyist and Mr. Delk sought reimbursement from Freddie Mac for the cost of taxi cab transportation to and from the campaign fundraising events. The total cost of these reimbursements did not exceed \$500.

16. In sum, from October 2000 through May 2003, Mr. Delk hosted seventy campaign fundraisers. Based on documents produced in this matter, the events raised approximately \$1.7 million for federal candidates.
17. The fundraising events described above are mentioned in Freddie Mac corporate documents. For example, in a written document titled "Political Risk Management" that was presented to the Board of Directors in September 2000, Mr. Delk outlined an approach that included, among other things, supporting "bi-partisan party building efforts" and hosting "bi-partisan Member fundraising events." Mr. Delk's talking points for the presentation state "I am an active fund raiser for a number of key Members, hosting events for other donors that have raised nearly half a million dollars during the current Congress."
18. Mr. Delk also described campaign fundraising activity in Government Relations "highlights" sent each year to the CEO. In describing the 2001 "highlights," Mr. Delk stated that "[a]cting quickly, opportunistically and strategically, Freddie Mac held more than 40 fundraisers for Chairman Oxley." In the 2002 written summary of Government Relations "highlights," Mr. Delk again devoted a section to campaign fundraising activity. This summary stated, in part, that "we proposed to

Chairman Oxley a political model that was bold and unprecedented. We offered to use our fundraising model to marry his interests as Chairman with our interest in assisting committee members supportive of the continued strength of America's housing finance system...."

19. In addition, a summary chart describing Government Relations' major achievements from 2000 to 2003 described the issue facing Freddie Mac in 2003 as "Campaign Contributions - most major corporations have a well-funded PAC to buttress their lobbying activities." Under a column titled "Response," the chart stated that "[t]o compensate for FM's lack of PAC, M. Delk embarked on fund-raising effort on behalf of corporation; in past 18 events, held over 75 events for members of House financial services committee; raising almost \$3 million (90 percent of events were hosted by M. Delk to benefit Chairman Oxley)."
20. On more than one occasion, Mr. Delk mentioned to Mr. Brendsel and Mr. Brendsel's chief of staff recent campaign fundraising events that he hosted with Rep. Michael Oxley, emphasizing the success of the events.
21. In addition to the fundraisers hosted by Mr. Delk, Mr. Camper, the Vice President of Congressional Affairs, hosted approximately fourteen campaign fundraising events, primarily

for Democratic Members of Congress. Although complete documentation is unavailable, each event for which data is available appears to have raised an average of \$17,000 for federal candidates.

22. Mr. Camper stated during the investigation that he hosted these events in his personal capacity and was not instructed to do so as part of his job responsibilities. However, Mr. Camper stated that Government Relations employees traditionally held campaign fundraising events and there was an implicit expectation that he would do so. Mr. Camper based this understanding on comments made by Mr. Delk and Mr. Brendsel. For example, according to Mr. Camper, Mr. Brendsel asked Mr. Camper to keep him informed of when he was hosting a campaign fundraising event. Mr. Camper also stated that Mr. Brendsel expressed his desire to have Freddie Mac executives make campaign contributions. With respect to Mr. Delk, Mr. Camper stated that Mr. Delk encouraged him to retain an outside consultant to organize fundraising events, stating, "there were several times that I recall Mitch Delk saying things like 'we need to get somebody to help you in the way that Epiphany helps me.'"
23. In 2001, Progressive Strategies LLC ("Progressive") and Freddie Mac entered into a contract pursuant to which Freddie

Mac paid Progressive \$10,000 per month for "political and fundraising consulting services." According to Scott Freda, a Vice President with Progressive and a business acquaintance of Mr. Delk's, Mr. Delk told him that Freddie Mac wanted to hire Progressive to work specifically with Mr. Camper to raise money for candidates for federal office. The Commission has reason to believe that Freddie Mac, through payment of the monthly retainer, compensated Progressive for assisting Mr. Camper in hosting campaign fundraising events for federal candidates. Freddie Mac contends that the monthly retainer was solely intended to compensate Progressive for permissible fundraising consulting services related to national political party committees, and that the campaign fundraising events were Mr. Camper's personal political activity.

24. According to Mr. Freda, from approximately November 2001 to July 2002, Mr. Camper contacted Mr. Freda once or twice a month and told him that he was hosting a campaign fundraising event for a specific Member of Congress on a specific date and asked how much money Mr. Freda thought he could raise for the event. After providing an estimate, Mr. Freda began contacting people who he thought would be interested in contributing to the event and provided Mr. Camper with periodic updates regarding his fundraising efforts. Mr. Freda

was not involved in any of the logistical aspects of planning these events - rather, his only responsibility was to raise the amount of money he told Mr. Camper he could raise.

25. Mr. Camper hosted seven fundraising events for Members of Congress during the period that Progressive worked for Freddie Mac. Mr. Camper included these efforts in a corporate document, stating that he "Sponsored/Participated in fundraising events for virtually every key Member of Congress."

Freddie Mac terminated its contract with Progressive in September 2002 after Mr. Freda left the company. After the relationship between Progressive and Freddie Mac ended, Mr. Camper contacted Elizabeth Leger, the owner of the political consulting firm The Leger Company ("Leger"), to inquire whether she would be interested in performing political consulting services for Freddie Mac. Mr. Camper and Ms. Leger met in December 2002 to discuss the services Leger would provide Freddie Mac. Freddie Mac paid Leger a retainer of \$5,000 a month to provide political consulting services.

26. At or about the same time, Mr. Camper asked Ms. Leger if she would participate in some campaign fundraising activities for events he was hosting. According to Mr. Camper, he told Ms. Leger that Freddie Mac had received specific guidance from its former outside election law counsel as to how she

should be compensated for her services in connection with campaign fundraising events, and that he would like her assistance in producing the events, for which she could charge a \$250 fee to the campaign committee for whom the event was held. Ms. Leger stated that this fee was unrelated to how much time she spent organizing the event.

27. Ms. Leger stated that it took her no more than fifteen to twenty hours to organize each campaign fundraising event. Leger's work with Mr. Camper included coordinating the date and location of the event, drafting invitations, sending invitations to non-Freddie Mac employees and making follow up calls, if necessary, keeping track of attendees and contributions, making name tags, providing background information of the attendees to the campaign committee, attending the event, and then contacting the campaign to see if all promised contributions have been received. Ms. Leger also solicited contributions for events hosted by Mr. Camper, in one instance stating in an electronic mail message to a potential donor, "I have been retained by Clarke [Camper] and Freddie Mac to help organize and coordinate fund-raising events." The Commission has reason to believe that Freddie Mac compensated Leger, through the monthly retainer, for assisting Mr. Camper in producing campaign fundraising events. Freddie Mac contends that no

part of the monthly retainer paid to Leger was paid to compensate Leger for producing campaign fundraising events for Mr. Camper but that it was paid for permissible consulting services, and that these fundraising events were Mr. Camper's personal political activity.

28. In addition to the campaign fundraisers hosted by Mr. Camper and Mr. Delk, Mr. Brendsel hosted a campaign fundraising lunch in November 2001 on behalf of a former member of Freddie Mac's Board of Directors, who was a candidate for the U.S. House of Representatives. Mr. Brendsel enlisted the assistance of his chief of staff and Mr. Camper to solicit contributions to the event.
29. According to Mr. Camper, Mr. Brendsel implicitly suggested he also host a campaign fundraising event on behalf of the former Freddie Mac Board member running for the U.S. House of Representatives. Mr. Camper and Mr. Delk hosted this event, with the assistance of Epiphany, in October 2002 at Galileo. Epiphany solicited \$7,500 in contributions to the campaign committee and tracked the \$7,000 in contributions solicited by Freddie Mac. The Commission has reason to believe that Freddie Mac compensated Epiphany, through the monthly retainer, for its assistance in producing this event. Freddie Mac contends that no part of the monthly retainer paid to Epiphany

was intended to compensate it for producing this event and that it was the personal political activity of Freddie Mac executives.

Solicitation and Collection of Contributions

30. One of Mr. Delk's job responsibilities included apprising Freddie Mac executives, all of whom were members of Freddie Mac's restricted class, of congressional candidates to whom they should consider making campaign contributions.
31. After they identified specific candidates, Mr. Delk and Mr. Camper contacted Freddie Mac executives and solicited contributions. The solicitations, which often went through the executives' secretaries, included a list of candidates for whom Government Relations was seeking contributions, the amount of the contribution sought, and whether the executive, his or her spouse, or both should write contribution checks. After making the solicitation, Mr. Delk, Mr. Camper, or, on isolated occasions, a Government Relations secretary, called and inquired about the status of the contribution.
32. After the contribution check was written, oftentimes Mr. Delk or Mr. Camper either personally picked up the contribution or requested that the contribution be sent to the Government Relations office. After receiving a contribution from a Freddie Mac executive, someone in the Government Relations department sent the contribution to the beneficiary committee.

In some cases, the executives or their secretaries sent contributions directly to the beneficiary committee.

33. In addition, Mr. Brendsel, with the assistance of his chief of staff, Mr. Camper, and his secretary, solicited contributions from Freddie Mac employees in October 2001 on behalf of a former member of Freddie Mac's Board of Directors, who was a candidate for the U.S. House of Representatives.
34. At the direction of Mr. Delk or Mr. Camper, Mr. Brendsel's secretary collected contributions from executives and their family members and forwarded them to the recipient committee or to Government Relations for delivery to the recipient committees. According to documents provided to the Commission, Mr. Brendsel's secretary handled approximately \$55,000 in contributions to federal committees from 2000 to 2004. In addition, disclosure reports indicate that Freddie Mac executives and board members contributed approximately \$170,000 to Members of Congress for whom Mr. Delk, Mr. Camper, or Mr. Brendsel hosted campaign fundraising events between 2000 and 2004.

RGA Contribution

35. In February 2002, Wayne Berman, the Honorary Finance Chairman of the Republican Governors Association ("RGA") and a consultant hired by Freddie Mac, approached Mr. Delk and asked Freddie Mac to make a \$250,000 donation to the

RGA. At that time, the RGA was a part of the Republican National Committee and solicited funds for the Republican National Committee's Eisenhower Building Fund. Prior to the Bipartisan Campaign Reform Act ("BCRA"), Freddie Mac was able to make donations to national parties via the "building fund exemption."

36. At the suggestion of Mr. Berman, Freddie Mac divided its donation into two parts so that Freddie Mac could participate in events scheduled for February 2002 and November 2002.
37. On March 4, 2002, Mr. Berman sent a statement to Mr. Delk requesting a check in the amount of \$100,000 made payable to the "Republican Governors Association Eisenhower Building Fund." Freddie Mac sent the check as requested along with a cover letter notifying the recipient that the funds could only be used for building fund purposes.
38. On October 24, 2002, the RGA sent Freddie Mac a statement requesting the remainder of the donation, or \$150,000. At this point, the RGA, in anticipation of the changes in campaign finance law as a result of BCRA, was no longer affiliated with the RNC and, most importantly, was no longer soliciting donations to the Eisenhower Building Fund. As a result, the RGA statement specified that the check be made payable to the "Republican Governors Association."

39. According to Mr. Delk's secretary, when she received the October 24, 2002, statement, she asked Mr. Delk for instructions. Mr. Delk told her to process the contribution by completing a check requisition form. She completed the form seeking a \$150,000 check from Freddie Mac made payable to the RGA, signed Mr. Delk's name, and submitted the form.
40. Mr. Delk presented the check, allegedly with a letter stating that the contribution could only be used for building fund purposes, to Mr. Berman. Mr. Berman took the check, which the RGA attributed to Mr. Delk, and deposited it into its operating account.
41. On October 31, 2002, John Rowland, the chairman of the RGA, sent Mr. Delk a letter thanking him for his generosity, which would enable the RGA to "invest in crucial last-minute TV and radio ads, polling, get-out-the-vote, and direct candidate support in many of our key races and provide our candidates with the support they need to win."
42. According to Mr. Delk, in the summer of 2003 he learned that the RGA did not put the contribution into a building fund account. As a result, Freddie Mac asked the RGA to refund the donation, which it did on June 11, 2003, approximately eight months after the contribution had been made.

VI. The following violations of the Act occurred:

- 1. Freddie Mac violated 2 U.S.C. § 441b and 11 C.F.R. § 114.2(f)(1) by using corporate resources to host campaign fundraising events, which raised \$1.7 million for federal candidates. Freddie Mac does not contest but does not concede the violation.**
- 2. Freddie Mac violated 2 U.S.C. § 441b and 11 C.F.R. § 114.2(f)(1) by using corporate resources to collect and forward political contributions to federal candidates. Freddie Mac does not contest but does not concede the violation.**
- 3. Freddie Mac violated 2 U.S.C. § 441b by contributing \$150,000 to the Republican Governors Association in October 2002.**

VII. To avoid the disruption and expense of litigation, Freddie Mac enters voluntarily into this Agreement and makes the following contentions:

- 1. Freddie Mac contends that the fundraising events hosted by Mr. Delk and Mr. Camper were the personal political activity of those individuals and both Mr. Delk and Mr. Camper took a variety of steps to maintain the individual volunteer nature of their fundraising events.**
- 2. Freddie Mac contends that Freddie Mac's outside consultants, with whom Freddie Mac had monthly retainer agreements, provided the Company with valuable services entirely unrelated to the fundraising events hosted by Mr. Delk and Mr. Camper.**

3. Freddie Mac contends that Epiphany erroneously billed it \$22,512 in expenses relating to Mr. Delk's fundraising events, and once Freddie Mac became aware of this, the company sought and Epiphany provided an immediate refund of the expenses.

VIII. Freddie Mac will take the following actions:

1. Freddie Mac will pay a civil penalty to the Federal Election Commission in the amount of three million, eight hundred thousand dollars (\$3,800,000.00), pursuant to 2 U.S.C. § 437g(a)(5)(A).
2. Freddie Mac will cease and desist from engaging in activities (except as specifically permitted in 11 C.F.R. § 114) that violate 2 U.S.C. § 441b(a) including, but not limited to, using corporate resources to host campaign fundraising events and using corporate resources to collect and forward political contributions to federal candidates.

IX. Based on the facts and circumstances of this matter, and in view of Freddie Mac's payment of a civil penalty of \$3.8 million and agreement to cease and desist from violating the relevant provisions of the Act and the Commission's Regulations, the Commission has determined, in exercise of its prosecutorial discretion, to take no further action with respect to the former corporate executives named in this agreement and Epiphany Productions, Inc.

X. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

XI. Freddie Mac shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement.

XII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

XIII. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY: Rhonda J. Vosdingh
Rhonda J. Vosdingh
Associate General Counsel
for Enforcement

4/17/06
Date

FOR THE RESPONDENT:

BY: B. F. Syron
Richard F. Syron
on behalf of the Federal Home
Loan Mortgage Corporation

4/15/06
Date